

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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KEVIN LOYNACHAN and JANICE
LOYNACHAN, individually and as
successors-in-interest to
Decedent CHAD LOYNACHAN,

Plaintiffs,

v.

DARLENE SMILEY, in her
individual capacity as a law
enforcement officer for SISKIYOU
COUNTY SHERIFF'S OFFICE; and
DOES 1-50, inclusive,

Defendant.

No. 2:22-cv-00841 WBS JDP

ORDER RE: MOTION FOR LEAVE TO
AMEND COMPLAINT

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Plaintiffs Kevin Loynachan and Janice Loynachan move
for leave to amend the operative complaint. A party seeking
amendment must show that the amendment is proper under Rule 15,
see Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 608 (9th
Cir. 1992) (citations omitted), under which leave to amend should
be given "freely . . . when justice so requires," Fed. R. Civ. P.

1 15(a) (2). Leave should be denied only if amendment (1) would
2 cause prejudice to the opposing party, (2) is sought in bad
3 faith, (3) would create undue delay, or (4) is futile. Chudacoff
4 v. Univ. Med. Ctr. of S. Nev., 649 F.3d 1143, 1152 (9th Cir.
5 2011) (citation omitted). “[I]f a court finds that good cause
6 exists, it should then deny a motion for leave to amend only if
7 such amendment would be futile.” J & J Sports Prods., Inc. v.
8 Maravilla, 2:12-cv-2899 WBS EFB, 2013 WL 4780764, at *1 (E.D.
9 Cal. Sept. 5, 2013).

10 Plaintiffs seek leave to amend in order to add a claim
11 for failure to provide post-arrest care under the Fourth
12 Amendment. (Mot. at 2-3 (Docket No. 24).) They do so on the
13 ground that they only recently learned that the defendant may
14 have failed to provide reasonable post-arrest care to decedent
15 Chad Loynachan after shooting him. (Id.)

16 Defendant has not filed an opposition to the motion,
17 and the deadline to do so has passed. See L.R. 230(c). In light
18 of defendant's non-opposition, and good cause appearing,
19 plaintiffs' motion will be granted. See Johnson, 975 F.2d at
20 609; J & J Sports Prods., 2013 WL 4780764, at *1.

21 IT IS THEREFORE ORDERED that plaintiffs' motion for
22 leave to file an amended complaint (Docket No. 24) be, and hereby
23 is, GRANTED. Plaintiffs are directed to file their amended
24 complaint within ten days of the issuance of this Order. The
25 hearing on plaintiffs' motion set for October 16, 2023 is hereby
26 VACATED.

27 Dated: September 19, 2023


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE